

JMB

OFFICE OF MANAGEMENT AND BUDGET

Washington, D. C.

October 23, 1978

OLC # 78-5429

ENROLLED BILL REQUEST

In accordance with OMB Circular A-19, your views and recommendations are requested on the following enrolled bills (facsimiles attached):

S. 990 - FOR YOUR INFORMATION

Within TWO WORKING DAYS after receipt of this request, your reply (original and one) should be delivered VIA SPECIAL MESSENGER to Mrs. Wilder, Room 7201 New Executive Office Building.

Your cooperation will be appreciated.

James M. Frey
Assistant Director for
Legislative Reference

ATTENTION:

STAT

CIA

Ninety-fifth Congress of the United States of America

AT THE SECOND SESSION

*Begun and held at the City of Washington on Thursday, the nineteenth day of January,
one thousand nine hundred and seventy-eight*

An Act

To amend title 5, United States Code, to provide special allowances to certain physicians employed by the United States in order to enhance the recruitment and retention of such physicians.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Federal Physicians Comparability Allowance Act of 1978".

SEC. 2. (a) Subchapter IV of chapter 59 of title 5, United States Code, relating to allowances, is amended by adding at the end thereof the following new section:

"§ 5948. Physicians comparability allowances

"(a) Notwithstanding any other provision of law, and in order to recruit and retain highly qualified Government physicians, the head of an agency, subject to the provisions of this section and such regulations as the President or his designee may prescribe, may enter into a service agreement with a Government physician which provides for such physician to complete a specified period of service in such agency in return for an allowance for the duration of such agreement in an amount to be determined by the agency head and specified in the agreement, but not to exceed—

"(1) \$7,000 per annum if, at the time the agreement is entered into, the Government physician has served as a Government physician for twenty-four months or less, or

"(2) \$10,000 per annum if the Government physician has served as a Government physician for more than twenty-four months.

"(b) An allowance may not be paid pursuant to this section to any physician who—

"(1) is employed on less than a half-time or intermittent basis,

"(2) occupies an internship or residency training position,

"(3) is a reemployed annuitant, or

"(4) is fulfilling a scholarship obligation.

"(c) The head of an agency, pursuant to such regulations, criteria, and conditions as the President or his designee may prescribe, shall determine categories of positions applicable to physicians in such agency with respect to which there is a significant recruitment and retention problem. Only physicians serving in such positions shall be eligible for an allowance pursuant to this section. The amounts of each such allowance shall be determined by the agency head, subject to such regulations, criteria, and conditions as the President or his designee may prescribe, and shall be the minimum amount necessary to deal with the recruitment and retention problem for each such category of physicians.

"(d) Any agreement entered into by a physician under this section shall be for a period of one year of service in the agency involved unless the physician requests an agreement for a longer period of service. No agreement shall be entered into under this section later than September 30, 1979, nor shall any agreement cover a period of service extending beyond September 30, 1981.

S. 990—2

“(e) Unless otherwise provided for in the agreement under subsection (f) of this section, an agreement under this section shall provide that the physician, in the event that such physician voluntarily, or because of misconduct, fails to complete at least one year of service pursuant to such agreement, shall be required to refund the total amount received under this section, unless the head of the agency, pursuant to such regulations as may be prescribed under this section by the President or his designee, determines that such failure is necessitated by circumstances beyond the control of the physician.

“(f) Any agreement under this section shall specify, subject to such regulations as the President or his designee may prescribe, the terms under which the head of the agency and the physician may elect to terminate such agreement, and the amounts, if any, required to be refunded by the physician for each reason for termination.

“(g) For the purpose of this section—

“(1) ‘Government physician’ means any individual employed as a physician who is paid under—

“(A) section 5332 of this title, relating to the General Schedule;

“(B) section 5361 of this title, or similar statutory authority, relating to administratively determined pay for certain specially qualified scientific or professional personnel;

“(C) section 3 of the Tennessee Valley Authority Act of 1933 (16 U.S.C. 831b), relating to the Tennessee Valley Authority;

“(D) title 4 of the Foreign Service Act of 1946 (22 U.S.C. 861–890), relating to the Foreign Service;

“(E) section 10 of the Central Intelligence Agency Act of 1949 (50 U.S.C. 403j), relating to the Central Intelligence Agency;

“(F) section 121 of title 2 of the Canal Zone Code, relating to the Canal Zone Government and the Panama Canal Company; or

“(G) section 2 of the Act of May 29, 1959 (Public Law 86–36, as amended, 50 U.S.C. 402 note), relating to the National Security Agency; and

“(2) ‘agency’ means an Executive agency, as defined in section 105 of this title, and the District of Columbia government.

“(h) (1) Any allowance paid under this section shall not be considered as basic pay for the purposes of subchapter VI and section 5595 of chapter 55, chapter 81, 83, or 87 of this title, or other benefits related to basic pay.

“(2) Any allowance under this section for a Government physician shall be paid in the same manner and at the same time as the physician’s basic pay is paid.

“(i) Any regulations, criteria, or conditions that may be prescribed under this section by the President or his designee shall not be applicable to the Tennessee Valley Authority, and the Tennessee Valley Authority shall have sole responsibility for administering the provisions of this section with respect to Government physicians employed by the Authority.”

S. 990—3

(b) The analysis for chapter 59 of such title is amended by adding at the end thereof the following:

"5948. Physicians comparability allowances."

(c) No agreement shall be entered into under section 5948 of title 5, United States Code, as added by subsection (a), before the 60th day after the date of the enactment of this Act. No such agreement shall provide for the payment of any allowance under such section for any pay period beginning before the later of--

- (1) such 60th day, or
- (2) October 1, 1978.

SEC. 3. The amendments made by this Act are repealed, unless specifically extended by Act of Congress, effective on September 30, 1981.

Speaker of the House of Representatives.

*Vice President of the United States and
President of the Senate.*

Washington, D. C.

10/20/78

ENROLLED BILL REQUEST

In accordance with OMB Circular A-19, your views and recommendations are requested on the following enrolled bills (facsimiles attached):

S.990

Within TWO WORKING DAYS after receipt of this request, your reply (original and one) should be delivered VIA SPECIAL MESSENGER to Mrs. Wilder, Room 7201 New Executive Office Building.

Your cooperation will be appreciated.

James M. Frey
Assistant Director for
Legislative Reference

ATTENTION

CIA

October 3, 1978

H 11401

these so-called casino sites, there is general agreement that it should be done.

Some 65 percent of the land in the Lake Tahoe Basin is already held and managed by the Forest Service, so that this minor expansion of national forest boundaries is entirely in line with the program we have been following for many years. Lake Tahoe is widely recognized as one of our great national resources, and the American people have a clear interest in its preservation.

For these reasons, Mr. Speaker, I join in urging support for H.R. 13221.

Mr. JOHNSON of Colorado. Mr. Speaker, I have no further requests for time, and I yield back the remainder of my time.

Mr. RONCALIO. Mr. Speaker, I yield back the remainder of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Wyoming (Mr. RONCALIO) that the House suspend the rules and pass the bill H.R. 13221, as amended.

The question was taken; and (two-thirds having voted in favor thereof), the rules were suspended, and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

FEDERAL PHYSICIANS' COMPARABILITY ALLOWANCE ACT

Mrs. SPELLMAN. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 990) to amend title 5, United States Code, to provide special allowances to certain physicians employed by the United States in order to enhance the recruitment and retention of such physicians, as amended.

The Clerk read as follows:

S. 990

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Federal Physicians Comparability Allowance Act of 1978".

Sec. 2. (a) Subchapter IV of chapter 59 of title 5, United States Code, relating to allowances, is amended by adding at the end thereof the following new section:

"§ 5948. Physicians comparability allowances

"(a) Notwithstanding any other provision of law, and in order to recruit and retain highly qualified Government physicians, the head of an agency, subject to the provisions of this section and such regulations as the President or his designee may prescribe, may enter into a service agreement with a Government physician which provides for such physician to complete a specified period of service in such agency in return for an allowance for the duration of such agreement in an amount to be determined by the agency head and specified in the agreement, but not to exceed—

"(1) \$7,000 per annum, if, at the time the agreement is entered into, the Government physician has served as a Government physician for twenty-four months or less, or

"(2) \$10,000 per annum if the Government physician has served as a Government physician for more than twenty-four months.

"(b) An allowance may not be paid pursuant to this section to any physician who—

"(1) is employed on less than a half-time or intermittent basis,

"(2) occupies an internship or residency training position,

"(3) is a reemployed annuitant, or

"(4) is fulfilling a scholarship obligation.

"(e) The head of an agency, pursuant to such regulations, criteria, and conditions as the President or his designee may prescribe, shall determine categories of positions applicable to physicians in such agency with respect to which there is a significant recruitment and retention problem. Only physicians serving in such positions shall be eligible for an allowance pursuant to this section. The amounts of such such allowance shall be determined by the agency head, subject to such regulations, criteria, and conditions as the President or his designee may prescribe, and shall be the minimum amount necessary to deal with the recruitment and retention problem for each such category of physicians.

"(d) Any agreement entered into by a physician under this section shall be for a period of one year of service in the agency involved unless the physician requests an agreement for a longer period of service. No agreement shall be entered into under this section later than September 30, 1979, nor shall any agreement cover a period of service extending beyond September 30, 1981.

"(e) Unless otherwise provided for in the agreement under subsection (f) of this section, an agreement under this section shall provide that the physician, in the event that such physician voluntarily, or because of misconduct, fails to complete at least one year of service pursuant to such agreement, shall be required to refund the total amount received under this section, unless the head of the agency, pursuant to such regulations as may be prescribed under this section by the President or his designee, determines that such failure is necessitated by circumstances beyond the control of the physician.

"(f) Any agreement under this section shall specify, subject to such regulations as the President or his designee may prescribe, the terms under which the head of the agency and the physician may elect to terminate such agreement, and the amounts, if any, required to be refunded by the physician for each reason for termination.

"(g) For the purpose of this section—

"(1) 'Government physician' means any individual employed as a physician who is paid under—

"(A) section 5332 of this title, relating to the General Schedule;

"(B) section 5361 of this title, or similar statutory authority, relating to administratively determined pay for certain specially qualified scientific or professional personnel;

"(C) section 3 of the Tennessee Valley Authority Act of 1933 (16 U.S.C. 831b), relating to the Tennessee Valley Authority;

"(D) title 4 of the Foreign Service Act of 1946 (22 U.S.C. 861-890), relating to the Foreign Service;

"(E) section 10 of the Central Intelligence Agency Act of 1949 (50 U.S.C. 403j), relating to the Central Intelligence Agency;

"(F) section 121 of title 2 of the Canal Zone Code, relating to the Canal Zone Government and the Panama Canal Company; or

"(G) section 2 of the Act of May 29, 1959 (Public Law 86-36, as amended, 50 U.S.C. 402 note), relating to the National Security Agency; and"

"(2) 'agency' means an Executive agency, as defined in section 105 of this title, and the District of Columbia government.

"(h) (1) Any allowance paid under this section shall not be considered as basic pay for the purposes of subchapter VI and section 5595 of chapter 55, chapter 81, 83, or 87 of this title, or other benefits related to basic pay.

"(2) Any allowance under this section for a Government physician shall be paid in the same manner and at the same time as the physician's basic pay is paid.

"(i) Any regulations, criteria, or conditions that may be prescribed under this section by the President or his designee shall not be

applicable to the Tennessee Valley Authority, and the Tennessee Valley Authority shall have sole responsibility for administering the provisions of this section with respect to Government physicians employed by the Authority."

(b) The analysis for chapter 59 of such title is amended by adding at the end thereof the following:

"5948. Physicians comparability allowances."

(c) No agreement shall be entered into under section 5948 of title 5, United States Code, as added by subsection (a), before the 60th day after the date of the enactment of this Act. No such agreement shall provide for the payment of any allowance under such section for any pay period beginning before the later of—

(1) such 60th day, or

(2) October 1, 1978.

The amendments made by this Act are repealed, unless specifically extended by Act of Congress, effective on September 30, 1981."

The SPEAKER pro tempore. Is a second demanded?

Mr. LEACH. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentlewoman from Maryland (Mrs. SPELLMAN) will be recognized for 20 minutes, and the gentleman from Iowa (Mr. LEACH) will be recognized for 20 minutes.)

The Chair recognizes the gentlewoman from Maryland, Mrs. SPELLMAN.

(Mrs. SPELLMAN asked and was given permission to revise and extend her remarks.)

Mrs. SPELLMAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, S. 990, as amended, provides the heads of executive agencies with discretionary authority to offer service agreements to certain categories of Federal physicians in order to alleviate recruitment and retention problems which are currently being experienced.

The so called doctor draft had enabled the uniformed services to meet their needs for medical officers. When it ended in 1973, a supplemental "variable incentive pay" of up to \$13,500 a year was developed by the Department of Defense, and Congress in 1974, through Public Law 93-274, authorized it on a temporary basis to insure adequate recruitment and retention of medical officers in a draft-free environment. The legislation, which expires next October, also covers physicians in the Public Health Service Commissioned Corps.

In 1975, when the Veterans' Administration experienced difficulties in meeting its needs for well-qualified physicians, especially in some critically short specialties, the concept of a salary add-on was also extended to the VA physicians in the form of "special pay" under a bill passed by the Congress. This temporary legislation provides for "special pay" up to \$13,500 for a 4-year employment contract. Since it, too, expires next October, Congress is working on additional temporary extensions.

No authority to provide "special pay" has been given to agencies employing general medical physicians. S. 990 is an attempt to meet this need.

H 11402

CONGRESSIONAL RECORD — HOUSE

October 1

The Civil Service Commission in a general statement on the recruitment and retention of Federal physicians, which was submitted to the committee, stated:

Information from agencies and our own records show that virtually all Federal agencies experience extreme difficulty in recruiting and retaining physicians. The nationwide register of medical officers that is maintained by the Civil Service Commission contains just over 1,000 eligibles. This figure is deceptive, because an individual applicant may be on the register for positions at more than one grade level or for more than one specialty. Even more troublesome is the fact that about 44 percent of the physicians referred on certificates issued by the Commission to agencies are unavailable for placement. A large number of "non-availables" decline placement because of an undesirable geographical location of the position or the relatively low salary level. To overcome the shortage of available physicians, the Commission found it necessary to issue 93 noncitizen hire authorities in fiscal year 1977. As you may know, the Commission can only issue such authorities when there are no U.S. citizens available to fill the vacancies.

Since the vast majority of Federal physicians in the competitive service are employed by the Department of Defense and the Department of Health, Education, and Welfare, the Commission has granted direct hire authorities to these agencies to combat the difficulties encountered in recruiting qualified physicians. This special recruitment flexibility is an addition to the authority to pay special rates worldwide to medical officers, which currently is applicable to all agencies.

Upon the recommendation of the Civil Service Commission, the committee adopted new language which makes major modifications in the bill. The primary changes makes the bill applicable only to physicians, and unlike VA and uniformed physicians who may receive up to \$13,500 per annum in special pay and allowances, these physicians may receive no more than \$7,000 per annum if they have served the Government for 2 years or less up to \$10,000 per annum if the physician has served the Government for more than 2 years. Further, the agency must show these physicians to be in categories which have been identified as having recruitment and retention problems. Such categories are to be identified by the head of the agency in accordance with regulations, criteria, and conditions as may be prescribed by the President or his designee and the bonus contracts are to be administered on a discretionary basis. The committee endorsed this change as it is consistent with the rationale underlying bonus authorities now provided physicians in the Veterans' Administration and the uniformed services. Additional modifications that were recommended by the Civil Service Commission make the authority for entering into contract agreements end on September 30, 1979, the same date as proposed in the 1979 budget for the Veterans' Administration, with all contracts terminating as of September 30, 1981.

Mr. Speaker, I urge this bill be promptly enacted.

Mr. Speaker, I yield back the balance of my time.

requests for time and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Maryland (Mrs. SPILLMAN) that the House suspend the rules and pass the Senate bill, S. 990, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate bill, as amended, was passed.

A motion to reconsider was laid on the table.

OSAGE INDIANS OF OKLAHOMA

Mr. RONCALIO. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 11894) to amend certain laws relating to the Osage Tribe of Oklahoma, and for other purposes, as amended.

The Clerk read as follows:

H.R. 11894

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 9 of the Act of June 28, 1906 (34 Stat. 539, 545), as amended, is further amended to read as follows: "There shall be a quadrennial election of the officers of the Osage Tribe as follows: A principal chief, an assistant principal chief, and eight members of the Osage Tribal Council shall be elected to succeed the officers elected in the year 1974 at a general election to be held in the town of Pawhuska, Oklahoma, on the first Monday in June 1978, and on the first Monday in June of each fourth year thereafter, in a manner to be prescribed by the Secretary of the Interior, and said officers shall be elected for a period of four years commencing on the first day of July following the election. In case of a vacancy in the office of principal chief or other officer by death, resignation, or otherwise, the vacancy shall be filled in a manner to be prescribed by the Osage Tribal Council. In the event of a common disaster and a quorum of five of the Osage Tribal Council does not survive, the Secretary shall appoint a principal chief and/or the number of councilmen necessary to complete a total of eight, to serve until the next quadrennial election. The Secretary is hereby authorized to remove from the council any member or members for good cause, to be by him determined, after the party involved has had due notice and opportunity to appear and defend himself. The tribal government so constituted shall continue in full force and effect until January 1, 1984, and thereafter until otherwise provided by Act of Congress."

Sec. 2. (a) The first paragraph of section 3 of the Act of June 24, 1938 (52 Stat. 1034, 1035), as amended, extending the mineral estate reserved to the Osage Tribe by the Act of June 26, 1906 (34 Stat. 539), is further amended by striking the phrase "until the eighth day of April 1983, and thereafter until otherwise provided by Act of Congress" and substituting, in lieu thereof, the phrase "in perpetuity".

(b) The second paragraph of section 3 of the Act of June 24, 1938 (52 Stat. 1034, 1035), as amended, is amended by striking the phrase "unless otherwise provided by Act of Congress" and inserting, in lieu thereof, the phrase "and thereafter until otherwise provided by Congress".

(c) The fourth paragraph of section 3 of the Act of June 24, 1938 (52 Stat. 1034, 1036) is amended by striking the phrase "January 1, 1984" and inserting, in lieu thereof, the phrase "January 1, 1984 and thereafter until otherwise provided by Act of Congress".

Sec. 3. (a) The Act of February 5, 1948 (62 Stat. 181) is hereby repealed.

certificate of competency under paragraph 2 of section 2 of the Act of June 24, 1938 (52 Stat. 1034, 1035); section 3 of the Act of March 2, 1929 (45 Stat. 1474, 1480); Act of February 5, 1948 (62 Stat. 181), make application to the Secretary of the Interior to revoke such certificate. That revocation of any certificate shall not affect the legality of any transaction heretofore made by reason of the validity of any such certificate. Restrictions on alienation of lands heretofore not reimposed.

(c) Sections 3 and 4 of the Act of June 27, 1925 (43 Stat. 1008, 1010); section 4 of the Act of March 2, 1929 (45 Stat. 1474, 1480); and sections 1 and 2 of the Act of June 24, 1938 (52 Stat. 1034, 1035) are amended by striking, wherever they appear, the phrases "of one-half or more Osage blood", "of more than one-half Indian blood", "of one-half or more Osage blood", and "or who is one-half or more Osage blood".

Sec. 4. In order to conserve the sources and provide for the greater recovery of oil and gas underlying mineral estate, the Secretary of the Interior is authorized to establish rules and regulations under which oil and gas leasing from a common source of supply be unitized.

Sec. 5. (a) Section 8 of the Act of June 18, 1912 (37 Stat. 86, 88), is hereby amended to read as follows: "Any person of Indian blood, eighteen years of age or over, may dispose of his Osage headright interest and the remainder of (real, person, and mixed, including funds) from which restrictions have not been removed, executed in accordance with the laws of the State of Oklahoma: Provided, that will of any Osage Indian shall not be admitted to probate or have any valid effect approved after the death of the testator until the Secretary of the Interior shall conduct a hearing as to the validity of such will at the Osage Indian Tribal Council in Pawhuska, Oklahoma. Notice of such hearing shall be given by publication at least ten days before the hearing in a newspaper of general circulation in Osage County, Oklahoma, and by mailing notice of such hearing to the last known address of all legatees, and devisees. The cost of such hearing shall be borne by the estate. In the absence of evidence of the State of Oklahoma governing the admissibility of evidence in such hearing, all evidence relative to the validity of the will of an Osage Indian shall be admitted to the Secretary within one month and twenty days after the date of the hearing for approval of such will by the Secretary, unless for good cause the Secretary extends the time. That such time shall not be extended beyond six months from the date of the hearing. For purposes of determining the validity of any will, the Secretary shall have the same subpoena power as in the courts. All costs of obtaining and evidence before the Secretary shall be borne by the party producing such evidence, subject to such costs being taxed to the estate in the event the District Court of the State of Oklahoma jurisdiction should determine such will to be beneficial to the whole estate. Standing any appeal from the decision of the Secretary, approval of such will by the Secretary shall entitle it to be admitted to probate without further evidence as to its validity upon disapproval thereof, the heirs or devisees shall immediately petition for letters of administration in the district court. No appeal from the order of the Secretary admitting or disapproving any will shall constitute a bar to the admission of letters testamentary or of administration."